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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,914	11/24/2003	Robert Longman		5249

7590 08/08/2007  
ATTN: ROBERT LONGMAN & SOPHIA C. LI  
SMART AUCTIONS, INC.  
1749 GOLF ROAD, UNIT #145  
MOUNT PROSPECT, IL 60056

EXAMINER
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ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/720,914	LONGMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James H. Zurita	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 24 November 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

On 24 November 2003, applicant filed the instant application. There are no claims to priority.

On 25 May 2005, the application was published as PG-PUB 20050114225.

#### ***Election/Restrictions***

The Election/Restriction Requirement of 29 August 2006 is vacated.

Claims 1-11 will be examined. Claims 1 (directed to a method) and 6 (directed to a system) are independent.

#### ***Claim Objections***

The following are objected to for minor informalities.

Claims 4-6 contain the expression "...or..." which renders the claim indefinite.

1.b seller/marker

Claims 1-10 refer variously to seller, seller/marker and seller/maker. The terms are interpreted as synonyms.

Claims 2-5, 8-11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Specification***

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The PTO cannot aid in selecting an attorney/agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson (US PB-PUB 20010039528) in view of Dabney (US 20040128224 A1).

As per claim 1, Atkinson discloses conducting a sealed offer auction, the method comprising:

- a) multi-round auction process (see, for example, at least paragraph 0071);
- b) **seller** of a new product will offer a set amount (greater than one) of that product (as in paragraph 0081) in an online auction (as in paragraph 0003) ;
- c) **seller** will give description about the usages and benefits of the product (as in paragraph 0007);
- d) auction has a scheduled deadline tracked by the auction system provider and selected by the **seller** of the product (see at least references to mechanism module);
- d) bids are sorted based on time of entry and are sealed during the auction process (see at least references to ranking, as in paragraph 0054);
- f) buyers will place sealed bid on such new product based on their perception of value about that product (as in paragraph 0013);
- g) number of winners of the auction will vary depending on diverse scenarios (as in paragraph 0071)

- h) each buyer is entitled to only one such product if he/she wins (claim 5, for example);
- i) winning price of such an auction will be a single price for all winners (as in paragraph 0038);
- j) winning price will be calculated based on a selected statistical averaging method (as in paragraph 0076);
- l) **seller** will then list a second round of New Product Auction for the same product, and the bidding process will repeat itself see references to next and multiple rounds, as in paragraph 0071);
- m) winners in the first round of auction will not be allowed to participate again regarding the same product (as in paragraph 0071);
- o) **seller** can select any number of rounds sufficient enough for it to determine the true market price before market the product nationwide (as in paragraph 0071).

As per claim 1, Atkinson **does not** specifically disclose that (b) the auction is a no reserve auction. Atkinson does not specifically disclose that (k) winners will be required to leave online comments about the product upon receipt of the product. Atkinson does not specifically disclose that (n) second round of bidders will determine their bids based on their valuation of the new product and the feedbacks from the first round of winners.

These features are disclosed by Dabney:

Dabney discloses that an auction with no reserve (Dabney, paragraph 0462, for example). Dabney discloses that (k) winners will be required to leave online comments

about the product upon receipt of the product (Dabney, see paragraph 0436, for example). Dabney discloses (n) second round of bidders will determine their bids based on their valuation of the new product and the feedbacks from the first round of winners (Dabney, see paragraph 0487, for example).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Atkinson and Dabney to disclose (b) an auction with no reserve, (k) that winners will be required to leave online comments about the product upon receipt of the product, (n) that second round of bidders will determine their bids based on their valuation of the new product and the feedbacks from the first round of winners.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Atkinson and Dabney to disclose (b) an auction with no reserve, (k) that winners will be required to leave online comments about the product upon receipt of the product, (n) that second round of bidders will determine their bids based on their valuation of the new product and the feedbacks from the first round of winners for the obvious reason that procurement of goods and services have

***Claim 2*** (online auction) is rejected on the same grounds as claim 1 (Internet).

***Claim 3*** (auction is for goods and services) is rejected on the same grounds as claim 1 (products)

***Claim 4*** (auction is for rights or properties) is rejected on the same grounds as claim 1, since buying and selling includes rights and properties)

**Claim 5** (service provider or an online auction host) is rejected on the same grounds as claim 1, since the online auction takes place over the Internet and involves servers, service providers and hosts.

**Claim 6** is rejected on the same grounds as claim 1.

**As per claim 7**, Atkinson discloses operating in accordance with said specified and limited time period whereby bids for a particular listing are only accepted for said specified and limited time period (see, for example, at least paragraph 0060).

**As per claim 8**, Atkinson discloses that seller terminal(s) are terminal connected to the Internet. See, for example, at least paragraph 0047.

**As per claim 9**, Atkinson discloses that plurality of individual buyers terminals are terminals connected to the Internet (see at least paragraph 0047).

**As per claim 10**, Atkinson discloses that controller comprises a server (for example, paragraph 0048).

**As per claim 11**, Atkinson discloses that seller terminal and said plurality of individual buyers terminals communicate with said controller via the Internet (see, for example, at least paragraph 0047).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

Art Unit: 3625

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**James Zurita**  
**Primary Examiner**  
**Art Unit 3625**  
25 July 2007

*James Zurita*  
**JAMES ZURITA**  
**PRIMARY EXAMINER**